

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MICHELLE CLARK,

Plaintiff,

Case No.:

-against-

JURY TRIAL DEMANDED

TARGET CORPORATION,

Defendant.

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NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, TARGET CORPORATION (hereinafter "Defendant"), by its undersigned counsel, hereby removes to this Court the above captioned action, which was pending against it in the Supreme Court of the State of New York, County of New York. Removal is based on the following grounds:

1. On or about May 3, 2018, 2018 Plaintiff, Michelle Clark commenced a civil action against Defendant, Target Corporation in the Supreme Court of the State of New York, County of New York, docketed as Index No. 154122/2108 (hereinafter the "Lawsuit").

2. On or about May 9, 2018, Defendant TARGET was served with a copy of the Summons and Verified Complaint in this Lawsuit via NYS Secretary of State. A true and accurate copy of the Summons and Verified Complaint are attached.

3. This Notice of Removal is being filed by Defendant pursuant to 28 U.S.C. § 1446(2) more than thirty days after service of a copy of the Summons and Verified Complaint because the pleadings do not specify the amount in controversy and a good faith effort has been made to verify the alleged injuries.

4. In this Lawsuit, Plaintiff asserts causes of action against Defendant based upon negligence.

5. The Lawsuit alleges that solely as a result of Defendant's negligence, while walking inside the Target store located at 112 West 34th Street in the County of New York, State of New York, Plaintiff Michelle Clark "was caused to slip and fall and sustain serious and severe personal injuries . . ." (Verified Complaint at ¶ TWELFTH). Plaintiff further alleges she "was rendered sick, sore, lame, and disabled; . . . was caused to suffer great pain, discomfort, and disability and, upon information and belief, will continue to suffer pain, discomfort, and disability in the future; . . . was caused to undergo hospital and medical care, aid and attention, and upon information and belief, may continue to require to undergo medical care, aid and attention for a long period of time in the future; . . . was obliged to expend and incur large sums of monies for medical care, aid and attention and, upon information and belief, will continue to be obliged to expend and incur large sums of monies for medical care, aid and attention; . . . was caused to become incapacitated from her usual vocation and avocation, and upon information and belief, may continue to be caused to remain away from her usual vocation and avocation for a long period of time to come in the future." (Verified Complaint at ¶ NINETEENTH).

6. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332 due to complete diversity among the parties' citizenship and because the amount in controversy allegedly exceeds \$75,000 exclusive of interest and costs.

Diversity Jurisdiction Exists

7. Plaintiff resides in New York County, State of New York and therefore are citizens of the State of New York. (Verified Complaint at ¶ FIRST).

8. Defendant TARGET is a Minnesota business corporation and has its principal place of business in Minneapolis, Minnesota. Target is not a citizen of the State of New York nor do they have principal places of business in New York. No change in the place of incorporation or principal place of business of TARGET has occurred since the commencement of this Lawsuit.

Amount In Controversy Exceeds \$75,000

9. In her Complaint, Plaintiff seeks unspecified damages for personal injuries suffered as a result of a slip and fall at a TARGET store that allegedly caused Plaintiff Michelle Clark's injuries.

10. Plaintiff has alleged she sustained serious and permanent injuries. (Verified Complaint at ¶ NINETEENTH). These damages, if proved, satisfy the amount in controversy requirement as they will result in damages that exceed \$75,000. Further, Plaintiff's counsel was requested to stipulate that the recovery for damages would not be capped at \$75,000 and that Defendant would forego their request for removal. Plaintiffs' counsel has represented that he would not so stipulate. (See attached Stipulation Capping Damages to \$75,000.00). The amount in controversy therefore exceeds \$75,000. *See Felipe v Target Corp.* (2008, SD NY) 572 F Supp 2d 455.

11. This Lawsuit is, therefore, a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 and 1446. Furthermore, removal to this judicial district and division

is proper pursuant to 28 U.S.C. § 1441(a) as this is the district and division embracing New York County, New York, where the Lawsuit is pending.

12. This Notice is accompanied by copies of all process, pleadings and orders served upon defendant in this action.

13. Promptly after this filing, this Notice of Removal will be served on Plaintiff, and Defendant will file a copy of this Notice of Removal with the Clerk of Courts for the Supreme Court for the State of New York, County of New York.

14. This Notice is signed in accordance with Federal Rule of Civil Procedure 11.

WHEREFORE, Defendant TARGET CORPORATION, respectfully removes the Lawsuit to this Court.

Dated: New York, New York
June 26, 2018

By: 
ALICE SPITZ, ESQ. (AS 5155)

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